

Docket No.: 1572.1236

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Keun-Sik Chang et al.

Serial No. 10/816,928

Group Art Unit: 2834

Confirmation No. 3105

Filed: April 5, 2004

Examiner: Thanh Lam

For: LINEAR COMPRESSOR

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is responsive to the Office Action mailed January 30, 2007, having a shortened period for response set to expire on February 28, 2007, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR 1.142

Applicants provisionally elect **Species A (FIGS. 1-4) corresponds to claims 1-5, 7, 9, 11-14 and 16-25** in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Species B (FIGS. 5-6) corresponds to claims 6, 10 and 15; and Species C (FIGS. 7-8) corresponds to claim 8 are concerned, it is believed that claims 6, 8, 10 and 15 are so closely related to elected claims 1-5, 7, 9, 11-14 and 16-25 that they should remain in the same application to preserve unity of the invention and to avoid any possibility of a double patenting issue arising at some later date. Both the elected claims 1-5, 7, 9, 11-14 and 16-25 and non-elected claims 6, 8, 10 and 15 (i.e., dependent claims which are dependent upon elected claims 1 and 11) are directed to a linear compressor. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the non-elected claims 6, 8, 10 and 15 by filing divisional applications.

MPEP § 803 sets forth the criteria for restriction between patentably distinct inventions. It indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP § 803.02, § 806.04(a)- § 806.04(i), § 808.01(a) and § 808.02). This section of the MPEP also states that for purposes of the initial requirement, a serious burden on the Examiner may be prima facie shown if the Examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02. The Examiner has not set forth any of these criteria or any other criteria for establishing that there would be a serious burden if restriction is required.

Even if the Examiner considers non-elected claims 6, 8, 10 and 15 to be separate inventions from elected claims 1-5, 7, 9, 11-14 and 16-25, the Applicants respectfully request the Examiner to consider claims 6, 8, 10 and 15 (Species B and C) and 1-5, 7, 9, 11-14 and 16-25 (Species A) together.

III. Conclusion

Upon review of references involved in this field of technology, when considering the subject matter of the various claim groups, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

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Date: February 28, 2007

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